IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MS JUSTICE G.ROHINI
WRIT PETITION NO : 16093 of 2004

Between:
1 Alla Hanumantha Rao, S/o Raghavaiah,
2 Darasani Hanumaiah, S/o Anjaiah,
3 Alla Suryanarayana, S/o Rama Kotaiah,
(All the Petitioners are r/o Annambotlavaripalem Village, Parchoor Mandal, Prakasam District).

..... PETITIONERS

AND

1 Government of Andhra Pradesh, Endowment Department,
Rep. by its Secretary to the Government, Secretariat Buildings, Saifabad, Hyderabad.
2 Assistant Commissioner of Endowments, Endowments Department, Ongole,Prakasam District.
3 Sri Vigneswara & Visweswara Swamy Temple, Garnepudi Village,Parchuru Mandal, Prakasam District,
rep. by Executive Authority/Managing Trustee Sri Addagada Subba Rao.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly in the nature of writ of mandamus declaring that the action of Respondent No.3 in proposing to conduct auction of lease hold rights of Ac. 5.00 , Ac. 3.78 cents of dry lands in Sy.No. 193/3 and Ac. 2.00 in Sy.No. 190/2 in Garnepudi village, Parchoor Mandal, Prakasam District held by the Petitioners No.1 to 3 respectively as tenants is arbitrary, illegal capricious and violative of principles of natural justice apart from the provisions of Act. 30 of 1987 and consequently direct the respondents herein not to dispossess the petitioners from the above said lands.

Counsel for the Petitioner: SMT.V.DYUMANI

Counsel for the Respondents 1 & 2: GP FOR ENDOWMENTS

Counsel for the Respondent No.3: Smt.N.Indrani
The Court made the following :

THE HONOURABLE MS.JUSTICE G.ROHINI

WRIT PETITION NO.16093 OF 2004

ORDER:

Heard the learned counsel for the petitioners and the learned Standing Counsel appearing for the third respondent as well as the learned Government Pleader appearing for respondent Nos.1 and 2.

The petitioners are the cultivating tenants in respect of lands belonging to the third respondent-temple. Admittedly they have been declared as landless poor persons in the enquiry conducted by the Assistant Commissioner of Endowments, Ongole. Under Section 82(2) of the A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1987 the landless poor persons shall have the right to continue as tenant provided he agrees to pay at least two third of the market rent for similarly placed land as lease amount. In terms of the said provision, the managing trustee of the third respondent-temple under the impugned letter informed the petitioners that the market rent for lands located in the vicinity is Rs.5,000/- per acre and therefore, the petitioners shall pay Rs.3,332/- per acre being two third of the said market rent. Thus the petitioners were called upon to pay a sum of Rs.6,664/- towards the lease amount for the two acres of land in their occupation within four days from the date of receipt of the notice, failing which the lease hold rights of the land will be put to public auction. Aggrieved by the said

action of the third respondent-temple, the present writ petition is filed.

The learned counsel for the petitioner contends that there is absolutely no basis for the assessment made by the third respondent-temple towards the rent payable by the petitioners. It is vehemently contended that the land is not fertile and it would not fetch the rent more than Rs.1,500/-. It is also stated that though the petitioner made a representation before the Commissioner of Endowments requesting to fix the proper rents payable in respect of the lands in question, the same has not been considered so far and in the meanwhile, the third respondent is taking steps to put the leasehold rights of the land in question to public auction.

Having regard to the facts and circumstances of the case, I am of the view that the issue raised with regard to the determination of proper rents payable, which requires investigation into facts on the basis of the evidence that may be adduced by the parties, cannot be gone into by this Court in exercise of jurisdiction under Article 226 of the Constitution of India. In the circumstances, I deem it appropriate to dispose of the writ petition granting leave and liberty to the petitioners to make an appropriate representation before the Assistant Commissioner of Endowments, Kakinada within a period of two weeks from today with all the relevant material with regard to the prevailing rent in the area in respect of the land in question. On receiving such representation from the petitioners, the Assistant Commissioner of Endowments, after giving a notice to the third respondent-temple, shall conduct the necessary enquiry as to the rents payable in respect of the land in question and pass appropriate orders in accordance with law, as expeditiously as possible, preferably within a period of four weeks from the date of the receipt of the representation from the petitioners. Till such orders are passed, the third respondent-temple shall not put the leasehold rights of the lands in question, to public auction.

The writ petition is accordingly disposed of. No order as to costs.

(G.ROHINI,J)

Date: 20.9.2004.

Note:
Issue C.C.in one week.
B/o
Mdaa.

Copy to:

1 The Secretary to the Government, Government of Andhra Pradesh, Endowment Department, Secretariat Buildings, Saifabad, Hyderabad.
2 The Assistant Commissioner of Endowments, Endowments Department, Ongole,Prakasam District.
3. Two C.Cs for G.P. for Endowments, High Court of A.P., Hyderabad (OUT)
4. Two C.D.copies.